

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RAJU J. MUKHI,)	
)	
Plaintiff,)	Case No. 4:22-cv-00280-MTS
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

SECOND JOINT STATUS REPORT

On December 27, 2022, this Court stayed the litigation in this case because of related litigation in the U.S. Tax Court, but ordered the parties to file joint status reports. On May 1, 2023, the parties filed their first joint status report. (Doc. 11.) This is the parties second joint status report. To assist the Court, the parties provide some background before providing status of the Tax Court litigation.

I. Background

Mukhi and the government are currently litigating the following three issues:

1. The Penalty Issue: In this Court and in Tax Court, Mukhi challenges the merits of penalties assessed against him pursuant to 26 U.S.C. §§ 6038 and 6677. In addition, Mukhi argues that assessed penalties violate the Excessive Fines Clause of the Eighth Amendment and the Due Process Clause of the Fifth Amendment and that reasonable cause applies.
2. The CDP Issue: In his administrative collection due process (“CDP”) hearing before the IRS Independent Office of Appeals, Mukhi challenged both the merits of the Penalty Issue (*supra*) and the collectability of the penalties —i.e., based on

his ability to pay, Mukhi argues that the IRS should have compromised the amount of the liabilities and renews these arguments in Tax Court. In Tax Court, Mukhi also challenges the adequacy of the CDP hearing that he received before the IRS Independent Office of Appeals. Mukhi argues that the IRS did not provide him a fair and adequate CDP hearing and, therefore, violated his statutory due process rights under 26 U.S.C. §§ 6320 and 6300 and his constitutional due process rights under the Fifth Amendment.

3. The Proposed Tax Deficiency Issue: In an earlier-filed Tax Court matter, Mukhi challenges the merits of the IRS's proposed assessment as to his 2005-2010 federal income tax liabilities, including the related penalties. The Tax Court consolidated this matter with CDP Issue and Penalty Issue discussed above.

II. Status Report

For their joint status report, the parties bring the following three matters to the Court's attention:

1. In Tax Court, on or about December 29, 2022, Mukhi and the IRS filed motions for partial summary judgment ("MPSJ"). In his MPSJ, Mukhi argues that the IRS violated his statutory and constitutional rights to a fair and impartial CDP hearing before the IRS Independent Office of Appeals and asks the Tax Court to remand the CDP hearing to the IRS Independent Office of Appeals for re-consideration. In its MPSJ, the IRS argues that: (1) Mukhi received a fair and impartial CDP hearing; and (2) the assessment of penalties under §§ 6038 and 6677 do not violate the Excessive Fines Clause of the

Eighth Amendment. The MPSJs are fully briefed and have been assigned to a Tax Court judge for consideration. The parties are awaiting the court's ruling.

2. Discovery is proceeding in the Tax Court case. Under the Tax Court's rules, litigants are required to conduct informal discovery before seeking formal discovery. In an earlier status report, the parties reported to the Court that Mukhi and the IRS had exchanged several rounds of informal discovery. Based on that discovery, the parties are working together on fact and document admissibility stipulations.

Date: August 18, 2023

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